

**STATE OF LOUISIANA
DIVISION OF ADMINISTRATIVE LAW
ETHICS ADJUDICATORY BOARD**

BOARD OF ETHICS

*** DOCKET NO. 2020-8644-ETHICS-A**

IN THE MATTER OF

PAMELA BURLEIGH

*** AGENCY TRACKING NO. 5120-074**

DECISION AND ORDER

The Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, requested a hearing to have the Ethics Adjudicatory Board determine whether Pamela Burleigh failed to file a supplemental campaign finance report for the 2019 calendar year in accordance with La. R.S. 18:1495.4(D)(3)(a), in connection with her 2015 candidacy for State Representative, District 40. The Louisiana Board of Ethics proved by clear and convincing evidence that Pamela Burleigh failed to file the report as alleged. The Louisiana Board of Ethics is authorized to impose an additional civil penalty not to exceed \$10,000 against Pamela Burleigh for the report as allowed by La. R.S. 18:1505.4(A)(4)(b).

APPEARANCES

An adjudicatory hearing was conducted January 21, 2021, in Baton Rouge, Louisiana, before Panel A of the Ethics Adjudicatory Board (EAB).¹ Charles E. Reeves Jr. appeared as counsel on behalf of the Board of Ethics (BOE). Although duly noticed, Pamela Burleigh (Respondent) did not appear for the hearing.²

¹ The Panel consisted of administrative law judges Edwin L. Hightower (presiding), Aaron B. Avery, and Sherlyn Shumpert.

² See BOE-8 (*Conference Report and Order* of the hearing was transmitted to the last known address of Respondent on November 16, 2020, by the Administrative Hearings Clerk for the Division of Administrative Law,, with correspondence notifying Respondent of the hearing date and time. These documents are part of the record in this matter and the Board of Ethics included them in the exhibit that was admitted into evidence.).

STATEMENT OF THE CASE

The Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, imposed a *Late Fee Assessment Order* upon Respondent for failing to timely file supplemental campaign finance reports in accordance with La. R.S. 18:1495.4D(3)(a) for calendar year 2019, in connection with her 2015 candidacy for State Representative, District 40.

The BOE then requested a hearing to have the EAB determine whether Respondent failed to file her supplemental campaign finance report for calendar year 2019, which was due by February 18, 2020, that may subject her to an additional civil penalty not to exceed \$10,000 as authorized by La. R.S. 18:1505.4(A)(4)(b).

At the adjudicatory hearing, counsel for BOE offered and introduced ten exhibits, which were marked for identification as BOE-1 through BOE-10 and admitted into evidence.³ Counsel presented the case on behalf of the BOE, the record was closed, and the matter was submitted for decision.

This adjudication is conducted in accordance with Code of Governmental Ethics, La. R.S. 42:1101, *et seq.*, the Campaign Financial Disclosure Act, La. R.S. 18:1481, *et seq.*, the Administrative Procedure Act, La. R.S. 49:950, *et seq.*, and the enabling legislation of the Division of Administrative Law, La. R.S. 49:991, *et seq.*

FINDINGS OF FACT

- 1) Respondent qualified as a candidate for the office of State Representative, District 40, in the October 24, 2015, primary election.⁴

³ Exhibits BOE 1-10 were certified by affidavit to be true and correct copies of the BOE records. BOE Exhibit 1 (January 4, 2020, affidavit of Carolyn Abadie Landry, Executive Secretary for the BOE). BOE Exhibit 10 (January 21, 2021, affidavit of Kristy Gary, Deputy Ethics Administrator for the BOE).

⁴ See BOE-2.

- 2) The office of state representative is a district office.⁵
- 3) Respondent received eight percent of the vote in the primary election and did not qualify to participate in the general election.⁶
- 4) When Respondent qualified as a candidate in the October 24, 2015, primary election, she acknowledged that she was subject to the provisions of the CFDA.⁷
- 5) On October 26, 2015, Respondent filed a Candidate's Report for the period of September 15, 2015, through October 4, 2015, which stated her funds on hand at close of the reporting period totaled \$1,375.86, and loan balances due totaled \$11,300.⁸
- 6) On April 10, 2017, Respondent filed a Candidate's Report, for the period October 5, 2015, through November 1, 2015, which stated her funds on hand at close of the reporting period totaled \$13.18, and no information was provided on loan balances or loan repayments.⁹
- 7) On April 11, 2017, Respondent filed a supplemental campaign financial disclosure report for the period November 2, 2015, through December 31, 2015, which stated her funds on hand at close of the reporting period totaled \$13.18, and no information was provided on loan balances or loan repayments.¹⁰
- 8) On April 11, 2017, Respondent filed a supplemental campaign financial disclosure report for calendar year 2016, which stated her funds on hand at close of the reporting period totaled \$13.18, and no information was provided on loan balances or loan repayments.¹¹
- 9) Respondent did not file her supplemental campaign financial disclosure report for

⁵ See La. R.S. 18:1483(7) (defining "district office").

⁶ See BOE-3.

⁷ See BOE-2.

⁸ See BOE-4, Schedule B, pp. 21 – 32 of 49.

⁹ See BOE-4, pp. 33 – 40 of 49.

¹⁰ See BOE-4, pp. 41 – 44 of 49.

¹¹ See BOE-4, pp. 41 – 44 of 49.

calendar year 2019, by the February 18, 2020,¹² deadline.¹³

- 10) On July 15, 2020, the BOE issued a *Late Fee Assessment Order* to Respondent that (a) assessed late fee of \$2,000 and (b) ordered Respondent to file her supplemental campaign financial disclosure report for calendar year 2019 within 20 days of her receipt of the order.¹⁴ The *Late Fee Assessment Order* was sent certified mailed to Respondent at 1377 Hwy. 749, Opelousas, Louisiana 70570.¹⁵ Respondent was notified in the letter accompanying the *Late Fee Assessment Order* that she could be subject to “an additional \$10,000 penalty” if she failed to file her supplemental campaign financial disclosure report for calendar year 2019.¹⁶
- 11) On October 29, 2020, the BOE mailed a copy of the *Request for Hearing* to Respondent, with written discovery propounded to Respondent, by certified mail, return receipt requested, to 1377 Hwy. 749, Opelousas, Louisiana 70570, and the return receipt was signed and returned.¹⁷

CONCLUSIONS OF LAW

Respondent knowingly failed to file her supplemental campaign financial disclosure report for calendar year 2019 by February 18, 2020. For this failure, the BOE is authorized to impose an additional civil penalty against Respondent as allowed by La. R.S. 18:1505.4(A)(4)(b).

Adjudicatory hearings under La. R.S. 18:1505.4(A)(4)(a)-(b) cover two kinds of campaign finance disclosure reports candidates must file in connection with elections. La. R.S.

¹² The statutory deadline of February 15, 2020, fell on a Saturday, and Monday, February 17, 2020, was a holiday. Therefore, the next business day was February 18, 2020.

¹³ See BOE-7, p. 3 of 8. (Respondent admitted, by operation of La. C.C.P. art. 1467(A), that she was a candidate for the office of State Representative, 40th Representative District, and she did not file a 2019 supplemental campaign financial disclosure report.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* at p. 1.

¹⁷ See BOE 7.

18:1505.4(A)(4)(a) addresses reports that candidates must file between the time the candidate qualified for the election and the election day. La. R.S. 18:1505.4(A)(4)(b) addresses “other reports” candidates must file in connection with an election at other times. In either case, the BOE must prove by clear and convincing evidence¹⁸ that the candidate knowingly¹⁹ failed to file a required report within the six-day or eleven-day period following when it was due, respectively.

Respondent was a candidate for State Representative, District 40, which is a “district office.”²⁰ Every candidate (or her campaign treasurer) for a district office is required to file certain campaign finance disclosure reports by the statutory deadlines.²¹ Failure to timely submit required reports constitutes a violation of the CFDA.²²

La. R.S. 18:1495.4(D)(3)(a) provides that if the candidate is not an elected public official and their deficit or surplus is equal to or greater than \$2,500, the candidate shall file annual supplemental reports with the BOE of all required information, no later than February 15th, each year, which shall be complete through the preceding December 31st. Such report shall be filed each year for five years or until a report has been filed which shows no deficit or surplus.

Respondent was an unsuccessful candidate for State Representative, District 40, which is a district office,²³ in the October 24, 2015, primary election. On October 26, 2015, Respondent filed a Candidate’s Report, for the period September 15, 2015, through October 4, 2015, which stated her funds on hand at close of the reporting period totaled \$1,375.86, and loan balances due totaled \$11,300. Therefore, Respondent had a deficit in excess of \$2,500.

¹⁸ See La. R.S. 42:1141.5(C). “‘Clear and convincing evidence’, in general, means that the fact of guilt must be proven to a greater degree than by ‘a mere preponderance of the evidence’ but less than by ‘beyond a reasonable doubt.... The standard requires that the existence of the disputed fact be [h]ighly probable, that is, much more probable than its non-existence.’” *Louisiana State Bar Ass’n v. Edwins*, 329 So. 2d 437, 442 (La. 1976).

¹⁹ La. R.S. 18:1505.4(A)(1).

²⁰ See La. R.S. 18:1483(7) (defining “district office”).

²¹ La. R.S. 18:1495.4.

²² La. R.S. 18:1505.1(B).

²³ See La. R.S. 18:1483(7) (defining “district office”).

Respondent did not file her supplemental campaign financial disclosure report for calendar year 2019, by the February 18, 2020, deadline. Additionally, Respondent has never filed a supplemental campaign financial disclosure report showing a deficit of less than \$2,500.

If, after conducting an adjudicatory hearing, the EAB determines that Respondent knowingly failed to file a required campaign finance disclosure report within the applicable time period, then the BOE may impose an additional civil penalty not to exceed \$10,000 against Respondent for each report that she failed to timely file.²⁴ Respondent's failure to file supplemental campaign financial disclosure report for calendar year 2019 within three days after the final date for filing creates a rebuttable presumption of intent to not file the report.²⁵ Nothing in evidence rebuts this statutory presumption.

With the benefit of the un rebutted statutory presumption of intent not to file, the BOE proved by clear and convincing evidence that Respondent knowingly violated the CFDA by failing to file her supplemental campaign financial disclosure report for calendar year 2019. As a result, the BOE is authorized to impose an additional civil penalty of up to \$10,000 for the report as authorized by La. R.S. 18:1505.4(A)(4)(b).

²⁴ LA. R.S. 18:1505.4(A)(4).

²⁵ La. R.S. 18:1505.1(A).

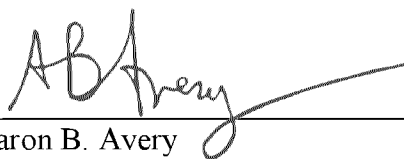
ORDER

IT IS ORDERED that the Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, is authorized to impose an additional civil penalty not to exceed \$10,000 against Pamela Burleigh for her failure to file her supplemental campaign financial disclosure report for calendar year 2019.

Rendered and signed on March 2, 2021, in Baton Rouge, Louisiana.



Edwin L. Hightower
Presiding Administrative Law Judge



Aaron B. Avery
Administrative Law Judge



Sherlyn D. Shumpert
Administrative Law Judge

NOTICE OF TRANSMISSION OF DECISION OR ORDER

I certify that on Monday, March 08, 2021, I have sent a copy of
this decision/order to all parties of this matter.

Clerk of Court

Division of Administrative Law

REVIEW RIGHTS

Requests for rehearing, reopening, or reconsideration are subject to the procedures, timing requirements, and legal grounds provided in Louisiana Revised Statutes (La. R.S.) 49:959, with the time for filing calculated pursuant to Louisiana Code of Civil Procedure article 5059. To determine your review rights, you should act promptly and seek legal advice.

To request rehearing, reopening, or reconsideration, please send it to one of the addresses indicated below:

EMAIL documents to:
EABprocessing@adminlaw.state.la.us

FAX documents to:
(225) 219-9820

MAIL documents to:
DAL – EAB Section
P. O. Box 44033
Baton Rouge, LA 70804-4033

If you do not request rehearing of your decision or your rehearing request is denied, you have the right to seek judicial review in accordance with La. R.S. 42:1142(A)(1), with the time for requesting judicial review calculated pursuant to La. C.C.P. art 5059. To determine your review rights, you should act promptly and seek legal advice.